

4.2 Hunger Strikes

Introduction

This U.S. Immigration and Customs Enforcement (ICE) Family Residential Standard protects residents' health and well-being by monitoring, counseling, and providing appropriate treatment to any resident who is on a hunger strike.

Nothing in this standard is intended to limit or override the exercise of sound medical judgment by the clinical medical authority (CMA) responsible for a resident's medical care. Each case must be evaluated on its own merits and specific circumstances, and treatment will be given according to accepted medical practice.

Various terms used in this standard may be defined in the ICE Family Residential Standard on *Definitions*.

Program Philosophy

The requirements of this standard must be implemented in accordance with the ICE Family Residential Standard on *Program Philosophy, Goals, and Expected Outcomes*.

A. Language Access and Disability Requirements

Centers will adhere to the language access and disability laws, regulations, responsibilities, requirements, and laws cited in the ICE Family Residential Standard on *Program Philosophy, Goals, and Expected Outcomes* and the ICE Family Residential Standard on *Disability Identification, Assessment, and Accommodation*. These requirements must be promulgated in all Center policies, practices, and operations and its themes must be fully incorporated into every Center activity. This is of critical importance and will directly impact resident life, health, and safety.

Expected Outcomes

The expected outcomes of this standard are as follows (specific requirements are defined in the Expected Practices section in this standard):

1. Adult residents who declare themselves on hunger strike or who do not eat for 72 hours will be referred to the medical unit for evaluation and possible treatment by medical and mental health personnel. Prior to 72 hours, staff may refer an adult resident who is not eating for medical evaluation. When clinically indicated, medical staff may refer the resident to a hospital. Minors observed or known to have missed three consecutive meals or four meals in any two-day period may be referred for medical evaluation (after consultation with the parent/guardian) to determine if medical or mental health intervention is required.

4.2 Hunger Strikes

2. Center staff will immediately notify the ICE/Enforcement and Removal Operations (ERO) Field Office Director (FOD), ICE Health Services Corps (IHSC), and the Juvenile and Family Residential Management Unit (JFRMU) Chief when a resident is on a hunger strike, declared or otherwise.
3. Medical staff will monitor carefully and document the resident's health, as well as the resident's intake of foods and liquids. The CMA, designated physician, or treating medical staff will conduct a full clinical and mental health assessment and evaluation, and recommend a course of treatment, intervention, or follow-up.
4. When a family member is on hunger strike and when medically advisable, all members of that family will be placed in their own room under one-on-one supervision.
5. Medical, mental health, or hospital staff will offer counseling to the adult resident or the minor's parent/guardian (if the minor is on hunger strike) regarding medical risks and residents will be encouraged to end the hunger strike or accept medical treatment.
6. An adult resident's refusal of medical treatment, or a parent's/guardian's refusal of treatment for his/her child, will be documented in the resident's medical file.
7. Involuntary medical treatment will be administered only with medical, psychiatric, and legal safeguards.
8. A record will be established that notes interactions with the striking resident, the provision of food, attempted and successfully administered medical treatment, and communications among the CMA, Center Administrator, and ICE/ERO regarding the striking resident.

Standards Affected

This standard replaces the ICE Family Residential Standard on *Hunger Strikes* dated 12/21/2007.

Expected Practices

A. Staff Training

All staff will be trained initially and annually thereafter to recognize the signs of a hunger strike, and to implement the procedures for referral for medical assessment and for management of a resident on a hunger strike.

B. Initial Referral

Procedures for identifying and referring a resident suspected or announced to be on a hunger strike to medical staff will include obtaining from qualified medical personnel an assessment of whether the resident's action is reasoned and deliberate, or the manifestation of a mental illness.

Centers will immediately notify the FOD (or designee) and the JFRMU Chief immediately when a Center resident begins a hunger strike. The FOD and JFRMU Chief will follow current ICE policy for reporting significant incidents.

4.2 Hunger Strikes

Staff will consider any adult resident observed to have not eaten for 72 hours to be on a hunger strike and will refer him/her to the CMA for evaluation and management.

Minors observed or known to have missed three consecutive meals or four meals in any two-day period may, after consultation with the parent/guardian, be referred for medical evaluation to determine if medical or mental health intervention is required.

If an adult resident declares a hunger strike, then Center staff will develop a plan to ensure services continue to be provided for the resident's child(ren), to include food, medical/mental health monitoring, personal hygiene, activities, and education as needed.

If it is determined that an adult resident on a prolonged hunger strike has become physically incapable of caring for his/her child(ren), IHSC, the respective FOD, and the JFRMU Chief will determine appropriate action, which may include removing the resident from the residential program. Separation of a parent/guardian from his/her child(ren) will never be used as a threat to discourage hunger strikes. However, if the parent/guardian is not capable of caring for his/her child(ren) (as, for example, in the case of hospitalization for more than 3 days), then separation may be necessary at the direction of the FOD and JFRMU Chief.

C. Initial Medical Evaluation and Management

Medical staff will monitor the health of any resident on a hunger strike. If a resident engaging in a hunger strike has been diagnosed previously with a mental health condition, or is incapable of giving informed consent due to age or illness, then appropriate medical/administrative action will be taken in the best interest of the resident. Parents/guardians will be given the opportunity to provide informed consent for their children.

During the initial evaluation of any resident on a hunger strike, medical staff will:

- Measure and record height and weight;
- Measure and record vital signs;
- Perform urinalysis;
- Conduct psychological/psychiatric evaluation;
- Examine general physical condition; and
- If clinically indicated, proceed with other necessary studies.

The CMA or designated physician will be responsible for hunger strike management and may:

- Order free movement restrictions to monitor the resident's condition and treatment more effectively;
- Order placement of the resident and his/her family members in a single-family room; and
- Order food and liquid intake and output tracking.

Medical staff will measure and record weight and vital signs at least once every 24 hours during the hunger strike and repeat other procedures as medically indicated.

4.2 Hunger Strikes

Qualified medical personnel may modify or augment standard treatment protocols when medically indicated.

Medical staff will record all examination results in the resident's medical file. The Center Administrator will regularly apprise the FOD and JFRMU Chief of the determinations and actions taken.

D. Food and Liquid Intake and Output

When a family member is on hunger strike, the CMA or designated physician may order that all members of that family be placed in their own room under one-on-one supervision and will document the reasons for that decision. This decision will be reviewed every 72 hours by the Center Administrator and medical personnel. All minors who are not on a hunger strike will continue to receive all services as required by these standards. Center staff will monitor the food and liquid intake of any resident on a hunger strike.

After consultation with the CMA, the Center Administrator may require staff to:

- Measure and record food and water intake and output in the medical record using an "IHSC Hunger Strike" form or its equivalent;
- Monitor the resident taking into consideration the resident's mental health needs;
- Deliver three meals per day to the resident's room unless otherwise directed by the CMA—staff will physically deliver each meal regardless of the resident's response to an offered meal; and
- Provide an adequate supply of drinking water or other beverages.
- Remove from the family's resident's room all food items not authorized by the CMA. During the hunger strike, the resident's and his/her family members' purchase of commissary or vending machine food and beverages will be documented, and this information will be provided daily to the Center health care provider.

E. Resident Informed Consent and Refusal of Treatment

An adult resident has a right to refuse medical treatment on behalf of him/herself and his/her minor child(ren). If an adult resident refuses the initial medical evaluation or any treatment or other medical procedures for him/herself or his/her minor child, then medical staff will explain to the adult resident the medical risks associated with refusal of treatment, attempt to secure the adult resident's signature on a "Refusal of Treatment" form, and document treatment efforts in the resident's or child's medical record. If the adult resident will not cooperate by signing, then staff will note this on the "Refusal of Treatment" form. Medical staff will monitor any adult resident refusing medical treatment on behalf of him/herself or his/her minor child, as well as the minor child(ren), to evaluate whether the hunger strike poses a risk to the resident's or child's life or long-term health. If medically necessary, Centers may transfer the hunger striking resident to a community hospital or other medical facility appropriately equipped for treatment.

4.2 Hunger Strikes

The physician may recommend involuntary treatment when clinical assessment and laboratory results indicate the adult or minor resident's weakening condition threatens the life or long-term health of the resident. Before involuntary medical treatment is administered, staff will make reasonable efforts to educate and encourage the resident (or the minor's parent/guardian) to accept treatment voluntarily. Medical staff will explain to the resident (or the minor's parent/guardian) the medical risks associated with refusal of treatment and will document treatment efforts in the resident's medical record. Involuntary medical treatment will be administered in accordance with established guidelines and applicable laws and only after the CMA determines the resident's life or health is at risk.

NOTE: Centers are expected to adhere to both these standards and any state licensing requirements; when there is a conflict, state licensing requirements will prevail. Centers should seek assistance from the FOD and JFRMU Chief as needed.

The Center Administrator will notify ICE/ERO and the JFRMU Chief if a resident is refusing treatment, and the Health Services Administrator will notify the respective ICE/ERO FOD and JFRMU Chief in writing of any proposed plan to feed the resident involuntarily if the hunger strike continues. Under no circumstances may a Center Administrator issue involuntary medical treatment without authorization from ICE/ERO and the JFRMU Chief.

The FOD, in consultation with the CMA, will then contact the Office of the Principal Legal Advisor and the U.S. Attorney's Office with jurisdiction. After discussing the case, the attorneys will recommend whether or not to pursue a court order. ICE policy is to seek a court order to obtain authorization for involuntary medical treatment. If a court determines that it does not have jurisdiction to issue such an order, or a hospital refuses to administer involuntary sustenance pursuant to a court order, then ICE/ERO may consider other action if the hunger strike continues.

If a court order is to be pursued, then ICE/ERO will work with the local ICE OPLA office and the U.S. Attorney's Office to make the arrangements for a court hearing.

Medical staff will:

- Document all treatment efforts and each treatment refusal in the resident's medical record;
- Continue clinical and laboratory monitoring as necessary until the resident's life or health is out of danger; and
- Continue medical and mental health follow-up as necessary.

Records will be kept of all interactions with the hunger-striking resident, the provision of food, attempted and successfully administered medical treatment, and communications among the CMA, Center Administrator, and the FOD (or designee) and JFRMU Chief regarding the striking resident. Records will be kept in accordance with the requirements in the Family Residential Standard on Health Care.

4.2 Hunger Strikes

F. Discharge from Treatment

Only a physician may order the termination of hunger strike treatment; this order will be documented in the resident's medical record. Center staff will also note in the resident file when a resident ends his/her hunger strike.

The Center health care provider will continue to provide appropriate medical and mental health follow-up after the end of the hunger strike.

The CMA also will notify the respective FOD, JFRMU Chief, and Center Administrator of the order.

References

- ICE Family Residential Standard on Definitions
- ICE Family Residential Standard on Health Care
- ICE Family Residential Standard on Program Philosophy, Goals, and Expected Outcomes
- National Commission on Correctional Health Care, Standards for Health Services in Jails